

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 2669-01  
Bill No.: SB 875  
Subject: Children and Minors; Crimes and Punishment; Evidence  
Type: Original  
Date: January 28, 2002

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON STATE FUNDS</b>			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
General Revenue	Less than (\$100,000)	Less than (\$100,000)	Less than (\$100,000)
<b>Total Estimated Net Effect on <u>All</u> State Funds</b>	<b>Less than (\$100,000)</b>	<b>Less than (\$100,000)</b>	<b>Less than (\$100,000)</b>

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
None			
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 4 pages.

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## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Office of the State Courts Administrator** assume the proposed legislation would have no fiscal impact on the courts.

Officials from the **Office of Prosecution Services** assume the costs of the proposed legislation could be absorbed within existing resources.

Officials from the **Office of the State Public Defender** assume that existing staff could provide representation for those few cases arising where indigent persons were charged with controlling obscene material that has a minor as one of its participants. However, passage of more than one bill increasing penalties on existing crimes or creating new crimes would require the State Public Defender System to request increased appropriations to cover cumulative cost of representing indigent persons accused in the now more serious cases or in the additional cases.

Officials from the **Department of Corrections (DOC)** stated that they could not predict the number of new commitments which could result from the creation of the offense(s) outlined in the proposal. An increase in commitments would depend on the utilization of prosecutors and the actual sentences imposed by the courts.

In FY 01 there were 2 misdemeanor probation openings for possession of child pornography. Increasing the penalties enhances the possibility of a person now receiving a prison sentence. However, an individual could still receive probation or a 120-day sentence. Over half of class D felons receive 120-day shock incarceration.

If additional persons were sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational costs either through incarceration (FY 01 average \$35.78 per inmate per day, or an annual cost of \$13,060 per inmate) or through supervision provided by the Board of Probation and Parole (FY 01 average \$3.34 per offender per day, or an annual cost of \$1,219 per offender).

The DOC is unable to determine the number of additional inmate beds that may be required as a consequence of passage of this proposal. Estimated construction cost for one new medium to maximum security inmate bed is \$55,000. Utilizing this per-bed cost provides for a conservative estimate by the DOC, as facility start-up costs are not included and entire facilities and/or housing units would have to be constructed to cover the cost of housing new commitments resulting from the cumulative effect of various new legislation, if adopted as statute.

ASSUMPTION (continued)

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Eight (8) persons would have to be incarcerated per fiscal year to exceed \$100,000 annually. Due to the narrow scope of this new crime, the DOC assumes the impact would be less than \$100,000 per year.

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
<b>GENERAL REVENUE FUND</b>			
Costs – Department of Corrections Incarceration/Probation costs	Less than <u>(\$100,000)</u>	Less than <u>(\$100,000)</u>	Less than <u>(\$100,000)</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b>Less than <u>(\$100,000)</u></b>	<b>Less than <u>(\$100,000)</u></b>	<b>Less than <u>(\$100,000)</u></b>
 <u>FISCAL IMPACT - Local Government</u>	 FY 2003 (10 Mo.)	 FY 2004	 FY 2005
	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

The proposal would revise the crime of possession of child pornography. A person would commit the crime by possessing or controlling any obscene material that has a minor as a participant or portrays an observer of sexual conduct, sexual contact or a sexual performance with a minor, or by possessing or controlling any material that shows a minor participating or engaging in sexual conduct.

The proposal also would increase the crime from a class A misdemeanor to a class D felony; if the defendant has pleaded or been found guilty of a prior Chapter 566, RSMo offense, the crime would be a class C felony.

DESCRIPTION (continued)

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space. This legislation would not affect Total State Revenue.

SOURCES OF INFORMATION

Office of the State Courts Administrator  
Office of Prosecution Services  
Office of the State Public Defender  
Department of Corrections



Mickey Wilson, CPA  
Acting Director

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